

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

UNITED STATES OF AMERICA

v.

MARC EUGENE NOBLITT

Criminal Action No.

1:03-CR-665-CC-01

(Second Superseding)

**THE GOVERNMENT AND DEFENDANT'S
JOINT PLEADING REGARDING
RESENTENCING UNDER UNITED STATES
SENTENCING GUIDELINES AMENDMENT 782**

The United States of America, by John Horn, United States Attorney, and J. Elizabeth McBath, Assistant United States Attorney for the Northern District of Georgia, along with the Federal Defender Program, Inc., by Stephanie Kearns, Executive Director, files this pleading regarding resentencing the Defendant under United States Sentencing Guidelines Amendment 782.

The United States Sentencing Commission promulgated Amendment 782, effective November 1, 2014, whereby the Commission lowered the penalties for most drug offenses by reducing offense levels on the Sentencing Guidelines Section 2D1.1 Drug Quantity Table by two levels. Under Amendment 788, Amendment 782 may be applied retroactively.

Given this mandate, the parties have reviewed the Defendant's case file to determine if the Defendant is eligible for resentencing. After this review, the parties have concluded that the Defendant is indeed eligible under the law for resentencing because Amendment 782 lowers the Defendant's base offense level.

The Defendant was originally sentenced on June 6, 2007, to a total term of 262 months of imprisonment. The Defendant's original guideline range was calculated as follows:

Base Offense Level: 36
Role in the Offense: +3
Obstruction of Justice: +2
Acceptance of Responsibility: -2
Total Offense Level: 39
Criminal History Category: I
Resulting Guidelines Range: 262 to 327 months

The Defendant also faced a mandatory minimum sentence of 120 months.

On July 3, 2008, the Eleventh Circuit Court of Appeals found that the district court's factual finding with respect to drug quantity was erroneous and vacated the Defendant's sentence and remanded for further proceedings. (Doc. 406). The Defendant was resentenced on December 19, 2008 to 262 months of imprisonment. (Doc. 415).

Amendment 782, however, changes the Defendant's guideline calculations to the following:

Base Offense Level: 34
Role in the Offense: +3
Obstruction of Justice: +2
Acceptance of Responsibility: -2
Total Offense Level: 37
Criminal History Category: I
Resulting Guidelines Range: 210 to 262 months

With these guideline changes, the Defendant's low-end of the guideline range has decreased from 262 months imprisonment to 210 months imprisonment. Thus, the parties recommend that the Defendant be resentenced to 210 months'

imprisonment.

A proposed Order will be emailed to the Court's Chambers.

Dated: This 7th day of June, 2016.

Respectfully submitted,

JOHN A. HORN
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CERTIFICATE OF SERVICE

I served this document today by filing it using the Court's CM/ECF system, which automatically notifies the parties and counsel of record.

J. ELIZABETH MCBATH
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Dated: This 7th day of June, 2016.

/s/STEPHANIE A. KEARNS

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